



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 14 November 2003 (20.11)
(OR. dk)**

14822/03

**FRONT 159
COMIX 693**

COVER NOTE

from : Poul Skytte Christoffersen, Ambassador/Permanent Representative
date of receipt : 21 May 2003
to : General Secretariat of the Council of the European Union

Subject : Communication from Denmark concerning implementation in Danish law
pursuant to Article 5 of the Protocol on the position of Denmark

Delegations will find attached a translation of a letter on the above subject.

PERMANENT REPRESENTATION OF DENMARK
to the European Union
Brussels

BY COURIER

Implementation of two Schengen Decisions in Danish law

At the meeting of the Council (Justice and Home Affairs) on 25 April 2002, the Council adopted a Decision on the revision of Part I of the Common Manual (2002/352/EC).

At the meeting of the Council (Economic and Financial Affairs) on 12 July 2002, the Council adopted a Decision on the revision of Part II of the Common Manual (2002/587/EC).

The abovementioned Decisions were adopted on the basis of Title IV of the Treaty establishing the European Community. The Decisions build upon the Schengen *acquis*.

In accordance with Article 1 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not take part in the adoption by the Council of proposed measures pursuant to Title IV of the Treaty establishing the European Community subject to Article 4 of the Protocol as regards certain visas measures.

Denmark thus did not participate in the Council's adoption of the above Decisions and they are not binding on or applicable in Denmark, (cf. Article 2 of the Protocol).

In accordance with Article 5 of the Protocol on the position of Denmark, Denmark has to decide within a period of 6 months after the Council has decided on a proposal to build upon the Schengen *acquis* under the provisions of Title IV of the Treaty establishing the

European Community whether it will implement this decision in its national law. If it decides to do so, this decision will create an obligation under international law between Denmark and the other Member States referred to in Article 1 of the Protocol integrating the Schengen *acquis* into the European Union as well as Ireland and the United Kingdom if those Member States take part in the areas of cooperation in question.

Denmark stated orally in connection with the adoption of the Decisions that it had been decided to implement them in Danish law.

The EU representation, accordingly, formally confirms that Denmark has decided to implement these two Decisions in Danish law, pursuant to Article 5 of the Protocol on the position of Denmark.

Implementation of the Decisions does not require any changes to the law in Denmark. The provisions are binding upon Denmark under international law.

Copies of this letter have been sent for information to the Commission (Directorate-General for Justice and Home Affairs) and to the General Secretariat of the Council (General Directorate H – Justice and Home Affairs).

(Complimentary close)

Poul Skytte Christoffersen
Ambassador/Permanent Representative

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